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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/330,417	06/11/1999	EDWARD K. PAVELCHEK	50369	9393

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EDWARDS & ANGELL, LLP
P.O. BOX 9169
BOSTON, MA 02209

EXAMINER
KORNAKOV, MICHAIL

ART UNIT PAPER NUMBER
1746

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/330,417

Applicant(s)

PAVELCHEK, EDWARD K.

Examiner

Michael Kornakov

Art Unit

1746

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 07 November 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 34-38, 41-43, 46-50, 53-65, 68-70 and 73-77.

Claim(s) withdrawn from consideration: 39, 40, 44, 45, 51, 52, 66, 67, 71, 72, 78 and 79.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: Continuation of 2. NOTE: The proposed amendment introduces the limitations of claim 36 into claim 34, this if entered, would have changed the scope of claims 36, 37, 38, 41-43, 56-50, 53-61. If amendment to claim 62 is entered, such amendment would have changed the scope of claims 64, 65, 68-70. Since the independent claims in Examiner's opinion are not placed in condition for allowance by the proposed amendment, therefore, if entered, such amendment would require new consideration of at least all dependent claims. It is further noted that amendment after final rejection fails to comply with 37CFR 1.121, the listing of all claims must include the text of all claims including withdrawn claims, claim 34 has not been provided with the proper status identifier, and as such the individual status of each claim cannot be identified.

Continuation of 5. does NOT place the application in condition for allowance because: Applicants argument is entirely based on the proposed amendment that has not been entered. With regard to Applicants' arguments that there is no motivation to combine Sato and Clodgo in rejection of claim 36, it is Examiner's position that Sato motivates the skilled artisan to add different ingredients to his silicon containing antireflective coating composition in order to facilitate the use of his composition and improve its properties, for example adhesion (col.27, lines 52-63).

It is further noted that silsesquioxane resins are conventionally utilized in semiconductor processing for obtaining thermally stable and crack resistant films with improved adhesion properties, which is recited in Clodgo, col. 2, lines 15-18., col.5, lines 1-9. Therefore, the skilled artisan, motivated by disclosure of Sato and teaching of US'530, would have found it obvious to introduce the silsesquioxane of Clodgo into the organosilicon antireflective coating in order to improve its adhesion while forming the semiconductor structure of Sato and thus to arrive at the limitations as instantly claimed. Applicants further argue that the proposed amendment to introduce the limitations of claim 74 into claim 62 would put claim 62 in condition for allowance, because claim 74 has not been rejected over EP 0501178. This is no persuasive, because both claims 62 and claim 74 have been rejected as being anticipated over Sato.

M. KORVAKOV

01/08/04